

## SPECIAL COUNCIL MEETING

FEBRUARY 5, 2014

The Special Council Meeting of the Council of the County of Kaua'i was called to order by the Council Chair Jay Furfaro at the Council Chambers, 4396 Rice Street, Room 201, Lihu'e, Kaua'i, on Wednesday, February 5, 2014 at 8:35 a.m., after which the following members answered the call of the roll:

Honorable Tim Bynum (*present at 8:44 a.m.*)  
Honorable Mason K. Chock, Sr.  
Honorable Gary L. Hooser  
Honorable Ross Kagawa (*present at 8:36 a.m.*)  
Honorable Mel Rapozo  
Honorable JoAnn A. Yukimura  
Honorable Jay Furfaro

Chair Furfaro: This is a Special Council Meeting and our regular posted Committee Meetings will follow thereafter. I have five (5) present. I do not have any excused/absent requests, so I assume the other members may just be tardy. May I have an approval of today's agenda?

### APPROVAL OF AGENDA.

Mr. Chock moved for approval of the agenda as circulated, seconded by Mr. Rapozo, and carried by a vote of 5:0:2 (*Mr. Bynum and Mr. Kagawa were not present*).

Chair Furfaro: Good morning, Mr. Kagawa. Let the record reflect that Mr. Kagawa is now present. I would like to have the Clerk read our Public Comment section please.

(*Mr. Kagawa was noted as present in the meeting at 8:36 a.m.*)

### PUBLIC COMMENT.

Pursuant to Council Rule 13(e), members of the public shall be allowed a total of eighteen (18) minutes on a first come, first served basis to speak on any agenda item. Each speaker shall be limited to three (3) minutes at the discretion of the Chair to discuss the agenda item and shall not be allowed additional time to speak during the meeting. This rule is designed to accommodate those who cannot be present throughout the meeting to speak when the agenda items are heard. After the conclusion of the eighteen (18) minutes, other members of the public shall be allowed to speak pursuant to Council Rule 12(e).

Chair Furfaro: Thank you very much. We have basically one item on today's agenda. Is there anyone here who wishes to speak during our Public Comment period? If not, we are now going to go on to the Resolution itself. To the County Clerk, this is the item that was up for reconsideration from a previous meeting. May I ask you to read that Resolution as such?

RESOLUTION:

Resolution No. 2013-72, Draft 2 – RESOLUTION TO IMPLEMENT AN ENVIRONMENTAL AND PUBLIC HEALTH IMPACTS STUDY (EPHIS), VIA FORMATION OF A PESTICIDE AND GENETIC ENGINEERING JOINT FACT FINDING GROUP (JFFG): Mr. Rapozo moved for adoption of Resolution No. 2013-72, Draft 2, seconded by Ms. Yukimura.

Chair Furfaro:

JoAnn, the Chair recognizes you.

Ms. Yukimura moved to amend Resolution No. 2013-72, Draft 2 as circulated, as shown in the Floor Amendment which is attached hereto as Attachment 1, seconded by Mr. Rapozo.

Chair Furfaro:

JoAnn, did you want the floor now?

Ms. Yukimura: Yes, please. Chair and members, my amendment would delete number six in the “Be Further It Resolved” paragraph. It would eliminate the wording, “Examine and report findings related to issues dealing with economic impacts, food sustainability, and environmental justice.” While I believe that these are important subjects, I think this provision violates the whole spirit of the Environmental and Public Health Impacts Study (EPHIS), which is to leave the setting of priorities for what studies to cover to the Joint Fact Finding Group (JFFG). Instead, this appears to dictate what the Committee should do. In my opinion, it could jeopardize the whole purpose of the EPHIS, which is to focus on environmental and public health issues. I have said that “food sustainability” is just too general. You could spend one million dollars (\$1,000,000) doing a study on that. For “environmental justice,” you cannot do that without the first part of showing the scientific connection; the epidemiological cause. If you see that it impacts certain economic classes, then you would do an Economic Justice Study, but without the basis of the scientific questions being answered first, the environmental justice issue is premature. I have said that economic impacts are important and I would support a separate study, as long as there is a Scope-of-Work, examination of who would do it, and if there is an estimated cost; but none of these issues have been addressed. As I pointed out, the joint fact finding process is a very specialized process to deal with scientific and technical questions, and to try to build consensus before you do the studies in terms of what questions need to be asked and the procedures and consultants that are to be chosen. This is breaking new ground and we need to focus if we want to find the answers to these critical questions as to what the level of pollution caused by farming operations is and what the connection is between that level of pollution and the health and well-being of our people. We do not have unlimited money, so that is another reason why it is important to focus on these issues. Economic impacts are not scientific questions. To me, they are pretty straightforward in terms of costs and benefits, and can be done through another process more cheaply without jeopardizing this very important study that addresses the crux of the issues raised by Bill No. 2491.

Chair Furfaro:

Okay. Mr. Rapozo, you have the floor.

Mr. Rapozo: I will make a few comments, but I would like to ask Nadine to come up at some point because I did have a question for the Administration. I kind of wanted to follow-up on Councilmember Yukimura's comments because I have taken a good look at this Resolution since the motion to

reconsider was made. I know that throughout the Bill No. 2491 discussion, we have all received numerous phone calls and E-mails saying basically, "How dare you put jobs in front of public health and safety; how dare you look at the economy and the money versus the health and safety of the community." That was never the intention even though that may have been the perception, but I agree with Councilmember Yukimura that those areas, the economic studies and the food sustainability studies, may in fact interfere with the scientific study for what in fact is actually going on in Kaua'i as it relates to pesticides and the impacts to the community. I want to see a study done and I think the EPHIS will get us at least started in that direction that will define the impacts; the medical, health, and safety impacts. Right now, that is what I am concerned about. I believe we allocated some funds for the EPHIS study, but if we start including these other components, I do not believe the money is sufficient... I really do not believe that. I do not want to, as Mr. Chair always says, "overpromise and under-deliver," and come out with a Resolution that we simply cannot fund and then be back asking for money. I also agree that these studies need to be done and that will be my question for the Administration. Can we get a commitment from the Administration that they will pursue—I am not saying that we fund the study because I believe there are organizations out there, especially the University of Hawai'i Economic Research Organization (UHERO) and others that will do an economic study—in fact, they will do a food sustainability study. It may be a bunch of students doing a project for their doctorate degree... some other means that we could get this study done, because I am interested in those components as well. However, moving forward with the funds that we have allocated, I believe we need to focus on the health and safety. The EPHIS, as the amended Resolution dictates, is one that I will support. I want to get moving on that immediately. I do not want to get clouded in—what I do want to say, and I think Councilmember Yukimura mentioned this in her comments, is that you have a fact finding group that you have the economic experts in there that are trying to justify versus really what is out there. Really, what is out there? What is in the ground? What is in the water? What is in the air? That is more of my concern right now. I will be supporting the amendment. Mr. Chair, after the discussion, I would appreciate it if we could get the Administration up. Thank you.

*(Mr. Bynum is noted as present in the meeting at 8:44 a.m.)*

Chair Furfaro: Okay. We will have the discussion, but before we take a vote on the amendment, I will do that. Any other members want to speak?

Mr. Hooser: I am opposing the amendment. We had extensive discussion on this before, we voted on it, and we passed it. There is no question that the economic impacts and the impacts on sustainability and environmental justice are significant items that need to be discussed. I think it is short-sighted to take these items out. They comprise sixteen (16) words, plus or minus a word of several pages of instructions to the working group. To say that we are instructing the working group on how to do their job, I think, is not true. No more so than all of the other items that we are specifically telling the working group to do on medical issues. All we are saying is to examine and report. The working group can decide whether they want to make this ten percent (10%) of their effort or five percent (5%) of their effort, but it would be up to them to choose on how much effort to put into this. The money for the EPHIS for the first step has been appropriated. It is the next step which will cost more money for the ultimate study. Again, it is up to this working group to determine how much emphasis they would

want to put. It just says "examine and report." It has tremendous potential impacts and the discussion that we had over and over for the past six (6) months or one (1) year has been a lot on what those impacts are on health, certainly, but also the economic impacts. To not include sixteen (16) words and allow this working group top at least examine and consider, I think is short-sighted. It is easy to say, "We can do another study." I think we all realize the reality of putting forth a resolution on this item to do an Economic Environmental Justice Study and fund additional money is highly unlikely. It makes more sense to put it in this effort and have it be a more comprehensive effort than what it is now. Again, I think it is short-sighted and does a disservice to our community to take out the opportunity, and that is all this is; an opportunity for this group to study very important issues with very little specific direction—"examine and report findings." I will be opposing this and encourage my colleagues to oppose it also. Thank you.

Chair Furfaro:

Mr. Chock, you have the floor.

Mr. Chock: Thank you, Chair. I am putting a lot of thought into this as well. The reason why I supported the reconsideration was because of the idea that there may be an option so that we would not corner ourselves into someplace that we do not want to go, and yet we still have the levity or the freedom to allow this joint fact finding group, who has not been formed yet, to make some decisions as part of their process. If it pleases the body, I do have an amendment specific to number six. Basically, it is just to add more words to it to say "as deemed necessary." My hope is that we do not cut people short before they get to even starting, but rather to give them the option to consider, even if it is a few sentences or recognition that there is some connectivity as we know there is.

Chair Furfaro: Hold on just a second. This amendment has not been introduced yet; he is just talking about. There needs to be a procedure to recognize that he is going to introduce it and has to have a second on it. You have the floor, Sir.

Mr. Chock: I will continue by saying that this is the direction that I am headed. I am committed to seeing that these items stay intact on the Resolution. Whenever it is appropriate, Chair, I would like to introduce it.

Chair Furfaro:

Mr. Bynum, you have the floor next.

Mr. Bynum:

I will pass for now.

Chair Furfaro: Okay. JoAnn, you wanted to speak again?  
Mr. Kagawa, you want to speak for the first time?

Ms. Yukimura:

Why do you not let him go first?

Chair Furfaro:  
Mr. Kagawa, you have the floor.

Yes, I think I am capable of doing that.

Mr. Kagawa: I will try to keep it short. I agree with Councilmember Yukimura's take on this. I think when you have a difficult task at hand, you like to keep it simple, and by keeping it simple is to keep the focus of the group on the main problem. At a later point, I agree with Mr. Hooser that there are other important things besides health and safety of the residents and environmental factors; however, I think when we are breaking new ground on such

an important issue, we have to keep the focus of the group simple. By keeping it simple, it is still not going to be simple. It is going to be a tough task to independently find out what is being done to the environment and health and safety of the public. We do not need to make the problem harder because it is going to be tough already. I think the health and safety was the crux of what was even pulling me to not listen to Mauna Kea's opinion and go along with the group. It is just that health and safety are more important than jobs; however, as we went along the process, we found out that there are problems, as the County Attorney pointed out, with Bill No. 2491. We are there now and we will see what the court says. I think for me, I really believe that the study needs to be done regardless of whether the County should be going into this area. I think just keeping it simple is the best way. I will be sticking with Councilmember Yukimura's amendment.

Chair Furfaro: Is there any member who has not spoken for the first time besides me? Mr. Bynum, you have the floor.

Mr. Bynum: I will also try not to belabor this discussion this morning because we have had it several times. I appreciate the amendment from Councilmember Chock, which allows this issue to get discussed by the group we are forming and to include it, if they choose, at the level that they choose. Without that amendment, we are saying, "Here, let us get this expert group together to study this, but you must not do this, this, or this if you deem it inappropriate. You must do this." My experience with Environmental Law is that it has evolved and developed over a period of time and that any consultants we hire will have a lot more expertise than anyone at this table about how to appropriately package this. I just do not want to truncate those individuals and let them do the work that is envisioned by this. I think Councilmember Chock's amendment does that and recognizes that this is important. I will close this by saying that I was trained in something called "Family Systems Theory" and it has become widespread all over the Country, including in the environmental movement. If you put a laser focus on one thing and do not even look at the things around that may be impacting that one thing, then you get a skewed view. You have to look at the whole systematic issue. That is the way Environmental Law is. It usually requires certain things. To me, changing this from an Environmental Assessment (EA) to an Environmental Health Study was recognition that health is the primary concern here and this is where we need special effort in this particular study, but not at the expense of having just some fundamental examination of covering the bases, which consultants know how to do. If you put in a Family Systems Theory, kind of like when I was doing therapy, people would come in and say, "Fix my kid; he yelled at his mom and he skipped school. Go fix him." For a lot of years, psychology would work with the kid and find out. But now as Madeline said here the other day, those systems have changed. They have said, "No, the intervention needs to be with the family because of the recognition that this kid's behavior happens in the context of this situation. To understand that behavior, maybe it is nice to know that the father is an alcoholic, has been abandoning the family, and that they are behind on their rent. Maybe suddenly acting out and yelling looks like something that was appropriate. I hope people get this context. I am just saying to not tell the professionals upfront on how to do their jobs. Give them the options and this group the option that I think Councilmember Chock's amendment allows. My amendment was like, "You have to do this; do these things." I strongly feel that they are important. His amendment says, "Let us let the group that we are empowering and the consultants that we hire to chime in on this." That seems a prudent way to go. Thank you.

Chair Furfaro: On that note, I would like to suspend the rules and have Nadine come up. Jerry, you can speak after that, and then I will take other public testimony. For the record, I am suspending the rules and give Mr. Rapozo the floor since you requested that Nadine be present.

Mr. Rapozo: Thank you, Mr. Chair and thank you, Nadine. I apologize because I should have given you some warning that I would be calling you up. I think you heard my concerns and my comments. I am not asking if the Administration would commit to funding any additional studies because obviously these are some tough times, but I guess my question is, is the Administration committed to pursue exploring these other studies? I am convinced that the University of Hawai'i or other universities and colleges here in Hawai'i would want to participate in something like this. It may have already been done and we do not even know. Is that something that the Administration is committed to? That is basically my question.

There being no objections, the rules were suspended.

NADINE K. NAKAMURA, Managing Director: Good morning. Nadine Nakamura, Managing Director. To answer your question, I think the Administration would be open to those options that you described. I think the path that you are going on is trying not to expend additional fund because of the tight financial situation that we are in and to try to find some academic resources to do this type of straightforward, economic analysis. I think yes, we would be open to doing that.

Mr. Rapozo: Okay. It is not so much that I do not want to spend the money; it is just that times are tough. Obviously, during this next budget, it is going to be tough. I guess for me, the focus, and correct me if I am wrong, throughout the discussions of Bill No. 2491 was health and safety. As I read this Resolution again and again, it is clear up until paragraph number six (6) or Section 6 that the focus is on health and safety. It is pretty specific as to what this Resolution wants to get accomplished. Then in number six (6), those additional components are added. I do not want my message to be taken that we do not want to spend the money; it is just that I believe that there are other organizations out there. Throughout the discussions, and you know this as well as I do because you sat here; there were many statements and comments made on both sides. One extreme was that these things are causing incredible health issues on the west side, and then on the other side, people are saying you could drink this pesticide and live. Both are maybe not necessarily accurate and this study will in fact, once and for all, point out the health and safety impacts. I believe that is critical. Thank you very much.

Chair Furfaro: Members, are there other questions for the Administration while Nadine is here? Councilmember Yukimura, you have the floor.

Ms. Yukimura: Thank you for being here, Nadine. I am thinking that economic impacts are really the issue, and that food sustainability and environmental justice are really... my thinking is the best way we can proceed on food sustainability is to figure out our islandwide agriculture park system and all the connections that we need to make agriculture successful on Kaua'i. If we are talking economic impacts— if the Council, with four (4) votes, passes a separate resolution for an economic study, will the Administration implement that?

Ms. Nakamura: I think the Administration would be open to having that discussion to develop a Scope-of-Work that encompasses the concerns with Council input, and finding what is best way to then get a consultant to deliver the services.

Ms. Yukimura: I understand that even without a Council resolution or an appropriation bill, the Administration could work with the Universities, so I am not against that proposal. I am also asking that if there was a show of intent by a majority of the Council to have a study, the Administration would work with us on that?

Ms. Nakamura: Yes. I think it would be good to get Councilmembers' ideas about what you would like to see in that study, what that Scope-of-Work might look like, and the kind of outcomes that you would expect for that type of study.

Ms. Yukimura: Yes. That has not been real clear in this discussion. Thank you very much.

Chair Furfaro: Are there any other questions for Nadine at this time?

Mr. Bynum: Good morning.

Ms. Nakamura: Good morning.

Mr. Bynum: I am just a little confused. Is the Administration taking a position on this issue that we are here discussing today?

Ms. Nakamura: The Administration supports the EPHIS Resolution and the amendment introduced by Councilmember Yukimura.

Mr. Bynum: Thank you for clarifying that. You are also saying that the Administration... the discussion in the last few minutes has been, "Well, we do not need to include this analysis in this report. We can do it separately." You are being asked, "Will you fund it? Will you implement it?" I do not understand. I have made testimony here before. It is not just my opinion; these are environmental attorneys, environmental people, and the consultants who prepare environmental reports that to do a study entitled "Environmental Health Study" and remove standard elements of an environmental component of a study, which are standard, can undermine the credibility of the whole study. I have also testified that I believe, and I think this group should be able to find out that this analysis will be recommended by these consultants because they want their study to be credible and they will—and I do not believe there is a big cost involved. They can make their analysis best made largely on readily available data and it is the kinds of things that these consultants do all the time. This group, if we find out that that is the case, it is not going to cost much to include this analysis and it will help the credibility of the whole report. Why would we contemplate spending separate money and not let this group that is supposed to set the Scope-of-Work, set the Scope-of-Work? We are "hand-tying" them. It really surprises me to say, "Well, we will spend other moneys and resources." Does the Administration recognize there are significant environmental justice issues in this whole debate especially for the west side?

Ms. Nakamura: It is very clear, geographically, the communities that are impacted by the growing of genetically modified organisms (GMOs) on Kaua'i.

Mr. Bynum: And these are identified federally as "low-income communities."

Ms. Nakamura: There are many issues relating to GMOs besides the health and the safety issues; the environment and the health issues. But the Massachusetts Institute of Technology (MIT) joint fact finding study approach is simply set up to deal with the most difficult problems and identify, to bring the stakeholders together, to have a discussion about what the real critical issues are, and to delve deeply into these issues to understand the scientific... what are the key questions that have to be asked that are bothering and concerning the community? Then to do a very detailed research to answer those questions by involving the stakeholders, building trust, dialogue every step of the way—hopefully there will be buy-in to some of the conclusions that are made. It is a very different approach from an EIS, which is very broad and general, and covers everything, but gives you very little data. This is a very different approach. It is to look at the very two, three, or four key issues, and to do the detailed research to answer those questions because there are differing opinions in the community and we would like to get everyone on the same page about what those results are. It is a totally different approach from where you are coming from, Councilmember Bynum.

Mr. Bynum: Thank you. You have made your position really clear. I was going to be done with this, but then you said, "It is the focus on the two or three key issues." What are those two or three key issues?

Ms. Nakamura: That is for the group to come up with.

Mr. Bynum: But we are telling them, "This cannot be part of it." For those *kama'āina* food producers who have lost their businesses and are no longer... this is important for them.

Ms. Nakamura: I think for the Administration, the two or three key issues are related to the environment and to the health of the community.

Mr. Bynum: Thank you.

Ms. Nakamura: We may have a difference about that opinion.

Mr. Bynum: Thank you.

Chair Furfaro: Before I recognize Mr. Hooser, I want to let everybody know that the procedures that the Chair will layout today is that I will allow each of you to speak twice on each amendment that is being proposed. I will not call up the body, I mean the Chambers, to speak on every amendment. I want the next step to be to read all of the amendments that are proposed to be introduced, so that those in the audience that wish to speak can know what is being proposed and can speak on all of them. For this amendment, Mr. Bynum has had the floor twice. JoAnn has had the floor twice. Mr. Hooser, you now have the floor for the second time for this amendment.

Mr. Hooser: This is my first time for questioning the Administration, but...

Chair Furfaro: This is discussion on this amendment. That is why they are up.

Mr. Hooser: I should complete my discussion and at the same time, I am asking the questions to the Administration. Should I do it all at one time?

Chair Furfaro: Do it all at one time.

Mr. Hooser: Okay. I am just trying to get this clear. I did not have any questions for you and then you said that, "The purpose of the MIT process is to bring stakeholders together, having them identify the key elements, and then move forward on that study." This amendment would prevent them from having a discussion. Are you saying that they should not be allowed to discuss economic, environment... that is the dilemma with what you are saying. You saying to bring the stakeholders together and let them focus on the main issues, but we do not want them to look at these three issues. I support Councilmember Chock's amendment which at least would allow them as stakeholders. They get in a group, twelve (12) or fifteen (15), whatever the number is and say, "Okay, we are looking at the health and science. But wait— look at the economic..." I do not want the consultant to say, "Wait a second, the Council said you cannot talk about that."

Ms. Nakamura: I do not think we are saying that they cannot talk about it, but we do not want that to be... if it comes up in the meeting, it comes up. I do not think we are going to cut anybody off from that discussion, but we want to say that what we heard in hours and hours of testimony over a very long period of time is that people are concerned about the potential impacts to the environment and concerned about potential impacts to individuals who live adjacent to these areas where pesticides are being sprayed.

Mr. Hooser: Got it.

Ms. Nakamura: Loud and clear. That is why we want the focus to be on those issues.

Mr. Hooser: Right. Then you would not oppose Councilmember Chock's amendment that says "as may be deemed appropriate?"

Ms. Nakamura: We prefer to support Councilmember Yukimura's amendment.

Mr. Hooser: But you would not oppose the committee discussing economic...

Ms. Nakamura: If it comes up in the course of discussion, it is going to come up and the facilitator will not say, "Participant, you cannot talk about this."

Mr. Hooser: I just want to be clear.

Ms. Nakamura: If it comes up, it will be discussed.

Mr. Hooser: Okay.

Ms. Nakamura: We want the focus to be on the key issues and not diluting it.

Mr. Hooser: Right, but the key issues are defined by the stakeholder group or are the key issues defined by Councilmember Yukimura or the Administration? Who defines the key issues?

Ms. Nakamura: It will be the stakeholder group.

Mr. Hooser: That is the point that I am making. They should be given the latitude to include these other items.

Ms. Nakamura: I think we can just agree to disagree.

Mr. Hooser: Maybe it is semantics. Chair, I am a little bit confused on the process right now because there is another amendment that I will be proposing. Is this my limit to discuss that also?

Chair Furfaro: No. After everybody has addressed this first one, I will allow other amendments to be introduced so that they can be read.

Mr. Hooser: Okay.

Chair Furfaro: We will have discussion two times on each one of those.

Mr. Hooser: Okay. I think I will conclude my remarks then. Thank you. Again, I oppose this. To tie the arms and the discussion of this working group is short-sighted and weakens the effort. We should allow this group, as they move forward in their discussions, the latitude to include discussions on these items. If we vote to take them out now, that is a documented record saying that they are not supposed to talk about it and I object to that. Thank you.

Chair Furfaro: Okay. Mr. Kagawa, you can speak again. You have only spoken once. Mr. Chock, you can speak again.

Mr. Kagawa: I did not go to MIT, but I hit that one on the nose where I want to keep it simple. We are doing something brand-new. I think Puna Geothermal is doing one EPHIS and we are doing the second EPHIS. I do not think the Puna one is done. It is a long, deep process as Managing Director Nakamura said. I think we definitely need to keep the focus of this group simple. In the whole process of Bill No. 2491, the testimony that hit us the most was that people are getting sick, the fish are dying, and the soil is contaminated. We need to find out whether that is fact or fiction. That has been the crux of everything. That is what hit us the most in the testimony in how many hours that we sat here— sixty (60) hours... more than that? One hundred (100) hours? We are almost at the point of figuring out why did we, Kaua'i County, pass Bill No. 2491, as amended? The reasons why I believe it passed was primarily because they were afraid that people were getting sick and the health/environment is being damaged by pesticide use by corn companies. For me, if the issue was that people are not getting sick and the environment— because it deals with food sustainability or economic viability, that

Bill would not have even been heard for one (1) hour. It would have no impact at all. I think we just need to focus on the main problem. Like Managing Director Nakamura said, if they bring up things that are important, I think the group will discuss it and they can include it and somehow bind it into the health and environment. Let us just keep it simple. I do not think we need to belabor this. I think Councilmembers have heard enough on this. Let us just read the amendments and let us just vote because I think we have heard enough on this issue. We all have own idea as to what is right and we all can agree to disagree, I guess.

Chair Furfaro:  
again?

Okay. Mr. Chock, you wanted the floor

Mr. Chock: I just wanted to mention... one of the reasons why I felt like we should move towards keeping line number six (6) in is that it is stated elsewhere in this Resolution. Obviously, it is something that was discussed at some time or another and was important enough to stay in there. On page one in the fourth whereas as it mentions "economic impacts and environmental justice issues." On page number two (2), it also mentions in the second paragraph, "economics and culture." If we are to move in this direction... by the way, I totally agree with Councilmember Yukimura. My wish is to not dilute or water down this scientific process; however, we are supporting that these were important areas to consider. Again, what I am proposing in the amendment would be to not delete it, but to just allow the group to make a decision. Thank you.

Chair Furfaro: Thank you. Everyone at the table has had two opportunities to speak on this piece.

Ms. Yukimura: My so-called "second opportunity to speak" was to ask the Managing Director a question. I did not get a chance to speak to address some of the concerns raised by my colleagues.

Chair Furfaro: Did your hand go up before she sat down? I did not see it. Nadine, may I ask you to come back up, please?

Ms. Yukimura: Chair, I am not asking to speak or question the Managing Director. I am saying that my second opportunity to speak was in fact a question to the Managing Director. I would just like to say something on the floor to discuss the issue.

Chair Furfaro: Okay. I want to make sure everybody understands that you will have six more times to speak because there are three (3) other amendments. I am giving everybody two chances on each amendment. Before I let you have discussion, I want to make a couple of housekeeping items. I have not spoken once.

Ms. Yukimura: Right.

Chair Furfaro: For those of you who are here, this is a Special Council Meeting. The Committee Meetings will not start until 10:30 a.m. I just want to make sure that everybody understands that. Those Committees will be run by the Committee Chairs. I just wanted to make that announcement. I just want to say it one more time that I want all of the amendments to be introduced, mainly so anybody who came today can speak on what they see those amendments

are when I open the floor to the public. There is an interesting discussion going on here about the "KRAs," which are referenced as "Key Result Areas." It was something that was introduced by (inaudible), who in fact worked for International Business Machines Corporation (IBM) and Volkswagen of America about knowing opportunities, threats, weaknesses, and so forth. I think the point that we are hearing is that the primary issues here are the health issues, environmental issues, and certainly public concerns, which are driving what might end up to be a bigger economic item. For example, if there really is a problem from the study, will home values be affected? Those types of things— will the job market be affected? We have to have the focus first on what exactly the public health areas are, environmental policy, and public health issues. There was a great letter that we got from Dr. Evslin today who wanted to focus on those items. We want to go through the policy of putting every proposed amendment on the table now. After all, we are not communists. Everyone will have an opportunity to speak, but let us do it in an orderly way. JoAnn, I will give you an opportunity here.

Ms. Yukimura: Chair, if you want to put all of the amendments on the floor before we vote on the amendment that is pending on the table, before us right now, I can reserve my comments. I just want to make sure that I can make comments before we vote on my amendment that is pending.

Chair Furfaro: Yes, understood. You will be given that opportunity.

Ms. Yukimura: Thank you.

Chair Furfaro: Okay. About the process, go ahead?

Mr. Bynum: What amendments are on the floor?

Chair Furfaro: Right now, we only have one amendment introduced and on the floor. We will introduce all of the other amendments now.

Mr. Kagawa: I have a process question. Are we going to vote now? My suggestion would be that we vote now on Councilmember Yukimura's amendment and if it dies, we vote on another amendment.

Chair Furfaro: I am going to introduce an opportunity for everyone to speak first on all amendments, but we will vote on JoAnn's first. We have one (1) amendment introduced and on the table. Are there other amendments to be introduced today by various Councilmembers only to be read? Do you want to have yours read now?

Mr. Chock: Yes.

Chair Furfaro: Go ahead.

Mr. Chock: This amendment is again number six (6). It remains the same. It says "exam and report findings related to issues related to issues dealing with economic impacts, food sustainability, and environmental justice, if deemed appropriate." There are three words added to the end of number six (6) that allows some freedom for the group to make a decision on whether or not they want to acknowledge it, request another study, or get rid of it.

Chair Furfaro:  
Mr. Hooser, you have the floor.

Okay. Is there a third amendment?

Mr. Hooser: Chair, I will read my amendment. "Members appointed to serve on the joint fact finding committee shall not be employed by or receive any compensation or financial benefit from any entity directly impacted by Ordinance No. 960, nor be directly involved with any litigation currently pending, involving any entity directly impacted by Ordinance No. 960."

Chair Furfaro: Are there any questions for Mr. Hooser? I have an amendment, but mine is really about collecting the data by zip code and so forth. Can I have somebody read my proposed item number four (4)?

JADE K. FOUNTAIN-TANIGAWA, Deputy County Clerk: This is amending item number two (2) in the tenth paragraph to read as follows, "Undertake, sustained and science-centered deliberations, and you are adding, 'and collect islandwide data' to identify the highest priority environmental and public health questions, you are adding, 'including the incidents of disease entities tabulated by zip code,' pertinent to the pesticides used and genetically modified crops grown by large-scale commercial agricultural entities on Kaua'i, and in comparison to the production of other agricultural products; this may include, but not be limited to, Atrazine, Bifenthrin, Chlorpyrifos (Lorsban), Clothianidine, Glyphosate (Roundup), Paraquat, and 2,4-d."

Chair Furfaro: Thank you. Mine just clarifies that as data is collected, it should also be compiled by districts, and those districts should be represented by zip codes. All of these amendments are now introduced. Is there anyone in the audience who would like to testify on any of those four (4) amendments? I can give you up to six (6) minutes now.

Mr. Kagawa: Mr. Chair, can I make a request?

Chair Furfaro: Yes, go ahead.

Mr. Kagawa: I would like to make a request that when we get done with this and if we hit 10:00 a.m., if we can go to the Barking Dog Ordinance because it looks like some of the people have shown up early. Thank you.

Chair Furfaro: Okay. Good morning, Jerry. You have the floor.

JERRY ORNELLAS: Good morning, Councilmembers. Jerry Ornellas, Kaua'i County Farm Bureau. Thank you for this opportunity to address you today. I am speaking in favor of adoption of JoAnn Yukimura's amendments. In terms like "environmental justice," we have seven (7) Councilmembers. My guess would be that each of you has a different working definition of exactly what that is. I think it is a very vague term and not easily defined. I think it would just muddy the waters to the point where deliberation is going to be very hard going forward. This begs the larger question of the County's ability to fund this study. I think you need to keep it as narrow as possible. It is going to be a very expensive study to do. I think it needs to be very focused. We have antagonized some of the State agencies with the passage of Bill No. 2491 and we will have to go back to those very agencies for their help in doing this study. Epidemiological studies, as

you know, are extremely expensive and cost many millions of dollars. Above all of this is really the issue of "Should we have done these studies?" I do not mean to get off-base, but should we have done these studies prior to passage of Bill No. 2491, which I believed we should have done. We are trying to develop a road map now after we have already embarked on this journey, so we are trying to make up the rules as we go along, and that is going to be very difficult. I would be happy to answer any questions if you have any.

Chair Furfaro: Are there any questions for Mr. Ornellas? If not, Jerry, thank you very much.

Mr. Ornellas: Thank you.

Chair Furfaro: Is there anyone else in the public who wants to testify on any one of the four (4) amendments? Come right up now if you want to speak.

WENDELL KABUTAN: Good morning. My name is Wendell Kabutan from Waimea. I am not real familiar with the process, but I have questions because I live there. My family has been impacted and other families have been impacted. My first question is why did the seed companies not provide their long-term studies before they brought all of their research centers to Kaua'i? Why are we doing this after-the-fact? My second issue is the MIT studies or "Western science." They look at the tip of the iceberg or they look at the forest, and there are people dying and people getting sick, but you have to prove everything. They do not look underneath the iceberg. They do not look at what is being killed under the ground and what is taking place under the ground. It is always dealing with what you can see on the top. The forest burns down and five (5) years later, it grows back. These people, where they go, they poison the land and five (5) years later, everything is still dead. Nothing is growing back. People are dying. They do not grow back. Why? Because there is something happening that is not seen by Western science because you have to prove this and prove that. If you go and you bring people from an "Eastern point-of-view," they will look at it differently. They will give you different information, point you in different directions, and focus on maybe the micronutrients in the ground. You are killing all of the earthworms and all of the beneficial bacteria and everything else, but Western science does not look at any of that stuff. These companies will poison and put fertilizers. It is not sustainable because next year, you will have to do the same thing. The next year after that, you will have to put more poisons and more pesticides. There are other ways of farming like natural farming and permaculture where you do not have to be using poisons, pesticides, and fertilizers because you nurture the Earth. You make sure everything under the earth is thriving and flourishing, as well as the top, which you can see, is productive and thriving. If you destroy what is underground and what you cannot see, then you destroy the land; you destroy the people. You are going to do another study and they are just going to look at the top. One more person die, but that is not enough evidence. One more child has a birth defect, but that is not enough evidence. Nobody is going to really look at what is happening. Why are the people complaining? Why are there more health impacts? When you drive down the road, the whole countryside is dead. All of the grass on the side of the road and in the fields... when they are spraying, it is all dead. At certain times of the year; the birds are dead, there are seashells on the beaches, and fishes on the land—they are all dead. There are a lot of birds dead. It is like Western science cannot see what they are putting in the air and what is in the ground. There is more to the scientific method that is being used by Western science and the

Western-trained mind that Eastern people have a completely different viewpoint, to me. That is one of the problems. You are going to do this whole study and you are just going to waste money because nobody is looking at what is under the iceberg. Only ten percent (10%) is showing.

Chair Furfaro: Nothing in any of the amendments introduced today would change any portion of this study that deals with the public health, the environmental soil tests, and so forth, or the public general safety questions. None of that is being amended as of right now.

Mr. Kabutan: But if you are going to use the University of Hawai'i students, you are just going to have another Western mind looking at the same stuff. You have to bring people from maybe another culture, like from maybe Japan or maybe some other Country that has been looking at it from a different perspective like in New Zealand where all of those people died.

Chair Furfaro: The group that is selected will be looking at those particulars, not mandated by the Council.

Mr. Kabutan: Yes. It is just that my concern is that you bring people with a different point of view instead of only the Western mind point-of-view because they only think one way.

Chair Furfaro: Understood. Your comments are well-received. I think Councilwoman Yukimura wants to address something with you.

Ms. Yukimura: Wendell, thank you for being here. I think you have made some very profound comments. My question is, are you against the study then? This EPHIS? Do you think we should not do it?

Mr. Kabutan: No, I am not against any study that would help to educate us and help us to discover some of the issues that the people are complaining about—how we are being impacted? Why can I not breathe? When I drive on the north side and sit on the beach, I can breathe. When I go back to Waimea, I cannot breathe. Something is wrong. I am not a scientist, but my body is talking to me.

Ms. Yukimura: Right. It is my intention, at least, in cosponsoring this EPHIS and the amendment that is pending right now before this Council, to focus on the questions that you are raising. Thank you very much.

Mr. Kabutan: My only point is that you have to bring people who have a different mindset and who were educated differently because if you are just going to use the Western method, you are going to end up with the same thing and they are going to just walk right over us.

Ms. Yukimura: Thank you.

Chair Furfaro: Thank you. Your comments were well-received. Is there anyone else that wishes to speak on this? Please come right up because we are on the clock here.

ROBERT CREMER, JR.: For the record, my name is Robert Cremer. I was not going to testify on this issue or any GMO issue because there are two sides about it. I do not disagree that there are environmental impacts or poisons does not affect people. What concerns me right now is that we are here talking about this same issue and three (3) months or four (4) months later, we are going to studies again. Why was this study not done prior to even passing Bill No. 2491? You cannot just push this thing through the door as Councilmembers because of the popular votes. Stop being career politicians. I am sorry—I am talking to all of you. We should not be talking about Bill No. 2491. It should have been a done deal already. We spent hundreds hours... no, thousands of hours of this issue, right Ross Kagawa? We are here talking about it again because we want to be popular. We are going to pass this Bill because of popularity and there are people crying on your doorsteps. Whether it was Pioneer, Syngenta, or the environmental people—we should have done these studies prior to even be doing it again. We are wasting a whole bunch of money again. I was here on the table. People are staying home from work to come and testify, and now we are back to Bill No. 2491 again. It is a shame, honestly. It is a shame for the public and for you guys because it should have never gone through the door, and now we are back talking about this issue. Straight up.

Chair Furfaro: Robert, I would like to say something to you. In my opinion, we are here at a phase of the Bill that we passed, which said that we would set-up these studies. My opinion—with the jurisdiction of agricultural permits and so forth, the political subdivision above us did not require these—the State. Now we are absolutely, as you said, we are after the fact. That is what I wanted to say. That was not a question; I just wanted to answer. I take your points very clearly. But the authority should have been with the political subdivision above us. I am going Honolulu on Monday to ask them to reinstate the five (5) Agricultural Inspectors we once had here. I appreciate your comments, but we have got to fix it.

Mr. Cremer: Why was this not done prior to that? The Mayor told you guys the reason why he wanted to veto it. He told you guys. Look, we are here...

Chair Furfaro: Robert, I did not ask you a question. I answered your question.

Mr. Cremer: I still have time for statements.

Chair Furfaro: You sure do.

Ms. Yukimura: Thank you for being here and for your thoughts. I agree with you that we should have done the study ahead of time, but I think there is still a need for the study. I was wondering if you think we just should not do it since we did not do it...

Mr. Cremer: Of course we should do it. I am not saying that we should not do it.

Ms. Yukimura: Okay.

Mr. Cremer: But why after fact that the Bill is passed? It is ridiculous.

Ms. Yukimura:  
we have. Thank you.

I understand, but now is the only time that

Chair Furfaro:

Mr. Bynum.

Mr. Bynum: Robert, thank you for your testimony. You are asking a great question. Why did these huge changes happen on our island and why did nobody do an environmental statement or study? We have this new dairy coming to Kaua'i. I have their conservation plan and their environmental study. All of these questions are coming from the community about how they are going to handle this change of agricultural land use there. They have done the study in advanced, so we can start with the dialogue. Huge changes happened here on Kaua'i and nobody told us; nobody bothered. In fact, they told us, "No, we are doing this," when in fact, they were doing something different and nobody did the study. That is why we are here, Robert. Nobody did the study. Nobody is looking at *kama'aina* people that have businesses who are losing because they are losing their livelihood, so we have less food and less revenue. Nobody is looking at that. Nobody is looking at that it changed from cane to spraying pesticides at a huge quantity and frequency, when they told us they were not doing that, but we know now that they were. These are very serious matters and we are all doing our responsibility because the State and nobody else did. Nobody has even set-up the regulatory parameters for this research-based growing of seeds. You asked a great question and the answer is that it did not happen because the people who were responsible to make it happen did not. We are picking up that because these are very serious issues that impact a lot of us. There are a lot of people out there who are afraid. They are afraid that they are going to lose their land and their businesses. I want us to look at all of those things and come together as a community to say, "Did we plan this or did it just happen to us?" If it just happened to us, let us figure out what happened. It is much deeper than people realize. Thanks, Robert, for being here because I agree with your sentiment. Why was this not done to begin with?

Chair Furfaro: Robert, you still have time, but I want to tell you that I personally appreciate you coming up and a lot of times bringing us back down to Earth. It has got to be done.

Mr. Cremer: No, I am not saying that the study should not be done; just after the fact is crazy.

Chair Furfaro: Thank you. Is there anyone else in the audience that wants to testify to any of the amendments? Come right up please.

MARY MURPHY: Good morning. Mary Murphy. Thank you for the opportunity. I totally agree with what Wendell had to say about not being able to breathe on the west side. I have worked in the hospital there and I have had afternoons that I have been told that my patients would not be showing up because the school is closed and they went home. To do this for your work and for your efforts to keep moving forward to hopefully find a way to hold the seed companies responsible and put the bill on them, if there is any way, and the taxes that they pay with what they are doing to the land, is deplorable. How it came to be is a mess. I just thank you for your hard work on trying to get some resolutions because the big question mark of what they are doing to the environment in every way, shape and form; the air, the water, the land, and the run-off is deplorable. I am up

on the north short and I have some land that is old sugar cane and pineapple land. When the machinery comes and digs up the first ten (10) inches, I have nice soil, but after that, it is junk. I do not know what I am working with down there. Kaua'i, the Garden Island, should not have to be a cesspool for the seed companies. Anything that you can do to bring these things back to life is appreciated. Thank you.

Chair Furfaro: Thank you. Can our last speaker please come up?

KLAYTON KUBO: Klayton Kubo, Waimea, Kaua'i. For this EPHIS, Mason, good one. You guys cannot leave anything out. Health should be the number one issue. Whatever else after that is after. Do not leave anything out. Do not close the door on anything. Whoever can say, "We cannot talk about that." Why after the fact? Number one, the State was not doing their job. They were not doing anything. The Board of Health— zero. The Department of Agriculture— zero. No matter how many times I sent pictures, called them up, and told them to come down— nothing was done. Maybe that is why the study needs to be done now. The amount of dust that we have in the homes in Waimea is outrageous. Yes, the study should be done. Are there any questions?

Chair Furfaro: JoAnn.

Ms. Yukimura: Hi Klayton. Thank you.

Mr. Kubo: How is it going, Ms. Yukimura?

Ms. Yukimura: My question is if economics is included and it bogs down the process and does not allow us to fully explore the issues of health; do you still want economics included?

Mr. Kubo: Like I said, number one is health.

Ms. Yukimura: Right.

Mr. Kubo: Anything after that is after. Let us do the health studies first, and then you guys go... whoever is the twelve (12) people, they will decide later, right? Not you guys, right?

Ms. Yukimura: Correct, but they could spend their whole time arguing about whether economics should be in or out, and what the questions are.

Mr. Kubo: Are they going to be getting paid an hourly wage that they are going to be grumbling for that long?

Ms. Yukimura: You will have a lot of things to discuss.

Mr. Kubo: Wow. Number one should be health. That is it. What Wendell testified is the truth. He cannot breathe. This is reality coming down on that side of the island.

Ms. Yukimura: That is what we are trying to focus on.

Mr. Kubo: We are not just imagining things. I have to worry if I am going to be a grandfather to my youngest one. I really hope so, but that is the kind of issues that we... even Puhi— they have fields around there. I bet you they even think, “I wonder how we are being impacted?” It is not only the west side.

Ms. Yukimura: There are going to be so many issues the committee has to discuss about pesticides/health connections and all of that, and they only have a limited time because they have to define the question. The second phase will be hiring the consultants and actually getting the studies done. We do have to think about it and that is one of my concerns. Thank you.

Mr. Kubo: Do what you guys have to do, which is right. Not by whoever else’s standard. The public is concerned. Health is number one.

Chair Furfaro: Mr. Chock.

Mr. Chock: Do you want this Council to decide what it is that this joint fact finding group focuses on? Do you want this Council to limit what it is that they look at?

Mr. Kubo: That is a tough question, Mason. I am going to add this in then. Maybe the communities that are being impacted should make that decision too, not just seven (7). That might be a tough one there. Ms. Yukimura is raising up her hand now.

Chair Furfaro: JoAnn, you have the floor.

Ms. Yukimura: Well, do you see how much time it is taking this Council on whether to put economics in or not? Do you want this Council to tell the joint fact finding group that health needs to be number one?

Mr. Kubo: Yes. Definitely.

Ms. Yukimura: Okay. Thank you very much.

Mr. Kubo: Whatever after that is after that, then they can provide the proof as to what all is being said, even from this side and from the other side. I heard beyond a reasonable doubt, they need to prove. I heard that guy say that.

Chair Furfaro: What we have is public health, environmental considerations, and safety of pesticides in the Resolution.

Mr. Kubo: Right on.

Chair Furfaro: Thank you. On that note, I will call the meeting back to order. In our process here, we have a motion and a second by Councilmember Yukimura, which I will give her the floor. I had the other three (3) amendments read, but there is no motion or second on them, and we would have to do that each time. Councilmember Yukimura, you have the floor.

There being no objections, the meeting was called back to order, and proceeded as follows:

Ms. Yukimura: Thank you. I think what we have to think about is process and we have to be mindful about what process involves. People have said here that we should give the group the opportunity to at least examine the issues of economics and let them decide whether five percent (5%) or ten percent (10%) of the effort should be spent on economics. This could take half the time of the committee to decide, when we have so many other issues related to health and environment that have to be addressed. It is going to be a challenge to have that group determine what those questions should be in the area of environment and public health. To allow economics to be part of this particular Resolution could jeopardize our focus on health and environmental safety. That is why I have put forth this amendment to take out this directive that says "shall examine economic..." We do not even say "shall examine public health." We say "shall determine priorities of public health and environment." To say "shall examine and report on economics and food sustainability," could just usurp/take over the entire process. That is not what I believe the majority of the people of this island want. I think it is instructive that Dr. Evslin, who was a key voice in the issue of the public health issues, has said he is not supporting the inclusion of economics in this Resolution. I have sent him a follow-up question and he is available to be called if we have a question about that. If economics is one of the choices, then there is going to be people trying to get people on the committee who support a discussion of economics. It just polarizes and politicizes the process of committee selection. To me, in many ways, it jeopardizes the main purpose of this EPHIS, which right now with my amendment, will focus on public health and the environmental issues, which I believe is what the people of this island want.

Chair Furfaro:

Mr. Rapozo, you have the floor.

Mr. Rapozo: Thank you, Mr. Chair. We must all remember that this is a Resolution; this is not a "Bill for an Ordinance." At the end of the day, this is a policy statement that goes across to the Administration from the County Council. We cannot mandate that fact finding group to do anything. This goes to the Administration and Administration will determine what happens next. We have heard from the Administration that they support Councilmember Yukimura's amendment. We have heard from a few people in the community that talked about health and safety, and that is really what I am concerned about. We are not drafting the request for proposal (RFP). We cannot mandate that the Administration do anything. My point is that we have spent already what is that... an hour and a half (1.5) talking about philosophies. We all know each other's philosophies already. We have spent enough time on it. I am with Mr. Kagawa. Let us put this thing out and let us vote on it. What I want to see is that I want to see a study being done as soon as possible, not bogged down by other issues that focuses specifically on what the testimonies talked about— why can you not breathe? Why is the dust all over the place? Is that dust containing rubbish? We are not going to get that if we inter-mingle the discussions with other things. Remember that this thing is talking about stakeholders. Stakeholders are going to be a part of this committee/group. Stakeholders include anybody who has a stake in this matter. You do not want to muddy the water with Economists that believe that we should maintain that industry out there because of the economic benefit that sometimes the economic benefit may outweigh the minimal health issues that may be out there. I do not want to know about that right now. What I want to know is what you guys are breathing, what is in the water, and what is in the ground. That is what I want to know now; phase one. If this group comes up in their discussions and one of these experts come up and say, "Hey, we may want to consider

environmental justice or some economic impacts.” Nothing prohibits them from doing that. This is a Resolution. This is not anything else. This goes across. They meet with the Mayor and the Administration and say, “Hey, these are the things that we would like to consider.” It is not our call on this body. I think the people have to understand the difference between a resolution and an ordinance. This is just a policy statement. Environmental justice is a very, very important component, but environmental justice kicks in when the study submits its results. When this study comes back and says, “There are unnecessary or unusually high amounts of toxins on the west side,” then it becomes an environmental justice issue. That is what this will do. Environmental justice—to go out there and say, “Hey, the west side community is unfairly treated because they have a landfill, some sewage plants, and GMO out there.” From some of the testimony, I hear again that the motivation or objective of this Resolution is to kick GMO companies out. That is not the intent of this Resolution; it is to find out what is happening on the west side. When we talk about GMO, now I am getting influxed with E-mails to say “no” to the dairy; a milk dairy. Somebody wants to do a milk dairy like we have had in Moloa’a for many, many years, which we used to love to drive past and smell that cow manure, but it was a dairy; a productive dairy. Now I am being told, “No, you have to say no to that too.” That is agriculture. We are finding ways to get rid of agriculture and we have to stop that. This will tell us once and for all what is happening out there. Mr. Furfaro’s amendment talks about “by zip code.” That is what I am interested in. I am interested in the zip code. What is happening in that zip code? What is happening in that area? We had testimony about many mothers having birth defects. How many of the mothers went to Kaua’i Veterans Memorial Hospital (KVMH) and live on the north shore? They could not answer that, but they were counted as a “west side birth,” but they are not exposed to anything if they live on the north shore. This will clear all of that up once and for all. If it becomes an environmental justice issue, then I believe the Council and the County should step in. Until we get that data, which this amended Resolution will provide, it is very difficult to sit here and try to run what is going on out there on the west side. Thank you, Mr. Chair.

Chair Furfaro: Are there any other members that wish to speak before we vote on the first amendment?

Mr. Hooser: Yes. Just briefly, Chair. We have beaten this up quite a bit here this morning and I do not intend to beat it up anymore. My feelings are clear. I do want to clarify and I do not want to drag Dr. Evslin into that “brawl” that we are having, in a very dignified way, but I believe his comments were mischaracterized. He has not spoken on the amendment. He has not spoken opposing, including economic or environmental justice. He has said that he thinks we should put health first and had some specifics, but I think to characterize him as being opposing... I do not think we should... I am just looking at his written document that is public information and I think we should move on. Thank you.

Chair Furfaro: Mr. Bynum.

Mr. Bynum: I will take one more shot at this because it looks like this vote is really going to be the determination. If Councilmember Yukimura’s amendment passes, it is unlikely that we will vote on, at least, Councilmember Chock’s amendment. All I want to do is get this to the fact finding group and the professionals...

Chair Furfaro: Excuse me. Let us give Mr. Bynum the floor.

Mr. Bynum: I want to get this to the fact finding group and the professionals without tying their hands. Yes, health is the focus. I agree with that one hundred ten percent (110%). Nobody is disagreeing with that. To come into the process and say that we are not specifically going to look at these other things, which are standard and routine in any credible environmental study. Councilmember Chock's amendment says, "Let the group decide. Do this at the level you decide, if you deem it appropriate." I cannot believe we would not support that and to take it away from the obviously varied opinions and varied kind of expertise that is on this group. I need to say that environmental justice— what is happening in Waimea, Puhi, and parts of Līhu'e is a poster child for environmental justice to be looked at. It would be a requirement of any study. Tom Vilsack, the United States Department of Agriculture (USDA) Secretary, has spoken extensively about this this year. The USDA's position is that we have to look at environmental justice issues in rural communities particularly. I heard all of this focus concerned about health. Obviously, I have sat through all of this. It is the most emotional and scary of testimonies. Dr. Evslyn's letter today was also cautioning us that in his view, a lot of the questions that we are asking are already determined. Pesticides are a threat to human safety in the way they are used on this island by research conducted by medical science. That is what he is telling us. Yes, we are going to raise our focus on health. To truncate this group is like going to the doctor because you have a cough, and then saying, "But do not take the vitals because it is just for the cough." Then it turns out that the person's blood pressure is off the scale. Would it not have been nice to know that before you send them away with cough medicine? It makes no sense to grounded, environmental individuals that we would take this analysis out of it. Councilmember Chock's says to let the group decide. That is logical to me because that is the group we are empowering, not this group. That is the group that will have a professional consult to guide this process who has a depth of expertise on these issues, much greater than mine or anyone else at this table. Thank you.

Mr. Rapozo: Mr. Chair, I need to clarify a comment that was made by Mr. Bynum about Dr. Evslyn's statement. I will read it verbatim because I think it was mischaracterized. It says, "I do not think the Council even needs to further research the question on whether pesticides are dangerous. That research has been done and is ongoing on an international basis." He never mentions about how it is applied here on Kaua'i. That is a very critical thing because you do not want to put words in Dr. Evslyn's mouth. I agree with him. We all know that pesticides are dangerous. What he says is, "Our job would be to begin to task of monitoring the health of our population zip code by zip code." That is what he said. He never mentions about the seed companies. Again, that is what I am afraid of. We keep going back to that GMO thing. Let us just find out what is wrong and let us fix it. Thank you.

Chair Furfaro: I will recognize you to respond to what he said.

Mr. Bynum: I appreciate the clarification and reading exactly what Dr. Evslyn said. I have no intention to mischaracterize it. I have also met with Dr. Evslyn. I have read many of the studies that he has directed us to about workers, families, and people near the spraying of pesticides at a much lower level than what they are spraying here and the documented health concerns. To clarify the statement, Dr. Evslyn is saying, "Hey, the concerns about health are already proved in his opinion." It is my comment that if you read the studies that

the American Pediatrics guides us to and looks at the very specific studies about looking at workers and families who are exposed. Those situations apply on Kaua'i. Thank you.

Chair Furfaro: I think we have all read Dr. Evslyn's piece. From there, you now understand my amendment "by zip code," which is what he suggested. Is there any more before I call for the vote here? I think summarizing this whole piece for me— I just want to make sure that what I understand is the main thing is the main thing; public health and community health. That is what we want to focus on. We are not a society that does not allow discussion about other pieces that could not be shared during the process. I will be supporting this amendment because it stays focused on the main thing as public health. I would like to call a roll call vote please.

The motion to amend Resolution No. 2013-72, Draft 2 as circulated, as shown in the Floor Amendment which is attached hereto as Attachment 1 was then put, and carried by the following vote:

FOR AMENDMENT:	Kagawa, Rapozo, Yukimura, Furfaro	TOTAL – 4,
AGAINST AMENDMENT:	Bynum, Chock, Hooser	TOTAL – 3,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Chair Furfaro: The vote passes on the amendment. Mr. Chock, I will give you the floor for the second proposed amendment, but we do not have a motion yet on it. I need a motion.

Mr. Bynum moved to amend Resolution No. 2013-72, Draft 2 as circulated, as shown in the Floor Amendment which is attached hereto as Attachment 2, seconded by Mr. Hooser.

Chair Furfaro: Okay. You have the floor, Mr. Chock.

Mr. Chock: It relates exactly to how we voted, so I am not going to belabor this much longer. It is very clear that everyone at this table is focused on health; that is number one. We know that and everybody in this room does. To be clear, the reason why I added this verbiage in— I will continue to allow the community at every opportunity to have a voice and be part of the process because I think it is important for them to. That is it.

Chair Furfaro: On a procedural piece, since the first amendment passed, procedurally we would have to address your amendment to get it to fit in area number six (6). Before I call for the vote, we will come back to that, but stay open for discussion on that amendment.

Mr. Bynum: In Councilmember Yukimura's amendment, there were other aspects that we did not discuss, which I support, which is the sentences that say "identify possible sources of funding for recommended scientific and monitoring studies; provide public posted agendas and written minutes of each meeting to the County; and present the Mayor, County Council, and community with the draft final Scope-of-Work and parameters of the EPHIS with..."

Ms. Yukimura: That is still there...

Mr. Bynum: This is not new language?

Ms. Yukimura: No.

Mr. Bynum: It just changed the number. Okay, then everything I said is moot.

Chair Furfaro: Okay. I want to remind you folks that we have a posted time for the Committee Meetings.

Mr. Rapozo: I have a procedural question. The amendment was introduced by Mr. Chock, so I was wondering if he was required to make the motion. I know Mr. Bynum made the motion to approve, but it is being introduced by Mr. Chock, so I am assuming Mr. Chock needs to introduce the amendment onto the floor. That is just a procedural question.

Chair Furfaro: Is that not the way we handled it?

Mr. Rapozo: No.

Chair Furfaro: The second came from Mr. Bynum?

Mr. Rapozo: No.

Chair Furfaro: Okay. Let us go and do a... what do they have at the Superbowl? An instant replay? Let us go back here.

Mr. Bynum withdrew his motion to amend, and Mr. Hooser withdrew the second.

Ms. Yukimura: Mr. Chair?

Chair Furfaro: Question for procedure? Go right ahead.

Ms. Yukimura: Thank you. I would advise that Vice Chair Chock not introduce the amendment until it is rewritten because it is...

Chair Furfaro: It is being fixed right at the moment as I said earlier. I will move it to the end of the agenda.

Ms. Yukimura: Yes. Maybe we should take up your amendment or Councilmember Hooser's amendment in the meantime.

Chair Furfaro: Okay. We are going to come back to you when it is grammatically correct to match the whole Resolution. Mr. Kagawa.

Mr. Kagawa: I think it is fine that we fix it, but why fix it if it does not have the votes anyway? We know what his amendment is. If you supported Councilmember Yukimura's amendment, you will not support Councilmember Chock's amendment. You would not vote for Councilmember Yukimura's amendment if you supported Councilmember Chock's amendment.

Chair Furfaro: Quite frankly, that is correct, but it was the introducer of the previous amendment who asked for it to be reconsidered after it

was corrected. I am saying that I wanted to move forward on it at the end of the session. Let us just do this. We will take a deep breath and we will go to my amendment. Would somebody want to read my amendment, which talks about identifying the results by zip code?

Ms. Yukimura moved to amend Resolution No. 2013-72, Draft 2 as circulated, as shown in the Floor Amendment which is attached hereto as Attachment 3, seconded by Mr. Kagawa.

Chair Furfaro: My amendment is on the table. I think you can see where I took some of that information from, which was out of Dr. Evslin's suggestion about the data being by areas and recorded by various zip codes in our community. Mr. Bynum, you have the floor.

Mr. Bynum: I am going to be supportive of this amendment. In my discussions with Dr. Evslin, he really believes that he has a lot to contribute about collecting the data in the way that is meaningful. This amendment is consistent with that purpose, so I am in support.

Chair Furfaro: Thank you. Is there any other discussion about the amendment introduced by the Chair? Having none, may I have a roll call vote on that amendment?

The motion to amend Resolution No. 2013-72, Draft 2 as circulated, as shown in the Floor Amendment which is attached hereto as Attachment 3 was then put, and carried by the following vote:

FOR AMENDMENT:	Bynum, Chock, Hooser, Kagawa, Rapozo, Yukimura, Furfaro	TOTAL – 7,
AGAINST AMENDMENT:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Chair Furfaro: Thank you. Mr. Chock, I am going let you go ahead and introduce it. As mentioned by Councilmember Kagawa, you might have the same vote outcome so it does not conflict. Go right ahead.

Mr. Chock: I wanted to recognize that. We already led to a conclusion here on this discussion, so I will be pulling this amendment from the floor.

Chair Furfaro: Okay. This amendment is not being introduced. Mr. Hooser, you have the last amendment for the day.

Mr. Hooser moved to amend Resolution No. 2013-72, Draft 2 as circulated, as shown in the Floor Amendment which is attached hereto as Attachment 4, seconded by Mr. Bynum.

Mr. Hooser: For this amendment, I basically restated, "Members appointed to serve on the JFFG shall not be employed by nor receive any compensation or financial benefit from any entity directly impacted by Ordinance No. 960, nor be directly involved with any litigation currently pending involving any entity directly impacted by Ordinance No. 960." I think for the joint fact finding group to have credibility, we need to have stakeholders who are not

paid to be on the group and are not suing the County or suing anyone involved in this issue. Three of the companies are suing the County right now. If they are successful, we will not be able to do the EPHIS as it is written now. To have representatives from those companies on the EPHIS working group, I think, would be just outlandish. It is the same with the other lawsuit. There is an article... I know everyone does not have time to read it at this moment, but I really encourage people to read this New Yorker Magazine article. It is quite lengthy, but it is quite well-done. It goes into detail talking about how the industry impacts the science. At the end of the day, there are conflicting scientific opinions on just about everything as we know. To have paid representatives on the working group who are using their resources from their companies to influence the outcome of the working group in the direction of this study, I think, greatly compromises the study. The working group, for example, will be determining what chemicals possibly might be studied and what pesticides. Certain companies have earned billions of dollars on these chemicals and it may not be in their best interest to study those chemicals any closer. Again, to ensure that there is impartiality on the working group and to ensure from the outside and inside that it is (inaudible), I urge the members to support this amendment. Thank you.

Chair Furfaro: I have questions, but as Chair, I will wait my turn before I question Mr. Hooser. Mr. Rapozo, go right ahead.

Mr. Rapozo: I do not have a question. I think that is a decision that needs to be left up to the fact finding group of who they determine they want access to. I think a stakeholder... that is exactly what it says; it is someone who has a stake in what happens. A lot of information that this committee will have to go through will have to come from the seed companies and the medical professionals. Although some of the medical professionals are not being sued or suing anybody, they have obviously taken a position on this matter; a very strong position. I think the fact that to limit the committee from anyone, that should be a decision made by the committee themselves. I will not support the amendment. I would expect the Administration, as they go through the formation of this group, would give the group the latitude to utilize the resources that they deem necessary. I will not be supporting this. Thank you.

Chair Furfaro: JoAnn has a question. I will wait to the end.

Ms. Yukimura: I have a comment.

Chair Furfaro: Okay. Your piece would not eliminate, for example, anyone from the University of Hawai'i agricultural community? I need clarification because that is where some of the science is too.

Mr. Hooser: It absolutely would not. I am not advocating eliminating people who are advocating for the industry, if you would, like Farm Bureau members, retirees of these companies, and scientists who believe strongly in the science of supporting genetically modified organisms. I am not advocating excluding those people. I am saying those that are paid directly by these companies who have enormous resources behind them, who have a fiduciary responsibility to the companies, and who are right now advocating in court to keep us from doing this and advocating at the Legislature to take away our power to do this. Those individuals— their bias is extremely clear. Again, it is more than just a personal bias. It is a fiduciary relationship to their companies and the fact that they are getting paid by the companies.

Chair Furfaro: That clarifies it for me. Anybody who is actually collecting Payroll, Taxes, and Employment (PT&E) from one of the five companies— they are eliminated, but other people who qualify for an educational standpoint whether it is the University of Hawai'i Agriculture Department and State Department of Health. JoAnn, you have the floor.

Ms. Yukimura: This amendment would destroy the whole purpose of the joint fact finding group EPHIS because it would exclude key stakeholders in the process. If you exclude key stakeholders, it is a violation of the joint fact finding process because you will not have all perspectives represented. Furthermore, the people employed in the companies have a stake in the health and well-being of this community, so they are entitled to be at the table as well, besides the fact that they are part of the community. Now this issue was addressed by Peter DeFur, PhD, who was a consultant that was brought onto Kaua'i by the pro-Bill No. 2491 people. Andrea Brower introduced him to me. He referred me to the National Academies of Science Policy and Committee Composition and Balance and Conflict of Interest. He says that it is okay to have a conflict of interest. Actually, even if you do not have a financial interest, you have a conflict if you have a biased. You are not going to just have neutral people. The key is balancing of the interests; that you do not have one side having more people than the other. That is the key, but you have to have those perspectives; that information and that background also at the table. I oppose this proposal.

Chair Furfaro: You have a question for the introducer? I have a question. Mr. Hooser, would you find yourself being more specific about any of these stakeholders being in the minority of the board; the make-up? I think that is the question I am hearing from Councilmember Yukimura.

Mr. Hooser: Yes, I do. These companies have filed lawsuits against the County of Kaua'i to prevent us from doing the EPHIS and to take away... to nullify the Bill... I am just astounded after having declared via their lawyers that they do not want us to do this, and having declared by their testimony at the Legislature that they do not want us to do that, that we would put them in part of the committee that is deciding it. In addition, their fiduciary relationship is to their companies; it is not to the community. I agree that there are lots of good people working for these companies in our community, but the fiduciary relationship is to their employer. Thank you.

Chair Furfaro: Again, my question was towards them having a minority make-up and you are saying none?

Mr. Hooser: No. That would be my preference. It is up to the body, of course, to make this decision.

Chair Furfaro: Okay. I can ask no more questions because I have had my two. JoAnn, this would be your last question on this.

Ms. Yukimura: Well, I do not have a question, but a comment, two-fold. One, nullifying Bill No. 2491 does not stop the EPHIS. There is a separate appropriation bill and separate resolution. In fact, that was one of the values of making a separate resolution and not just putting it into Bill No. 2491. I do not believe actually that those who are fighting Bill No. 2491 are opposed to the EPHIS *per se*. Secondly, the issue of balance will be in the hands of a facilitator

who knows how to do the joint fact finding group. But that is a key concept and I believe at least if it is done according to the geothermal study, people will file conflict of interest statements. There will be a disclosure process, and then there will be a real attention to balance of the committee.

Mr. Hooser: Okay. Can I respond?

Chair Furfaro: Yes. You may respond.

Mr. Hooser: Very quickly, just to clarify. Ordinance No. 960 references the EPHIS, certainly, and Ordinance No. 960 requires disclosure. You cannot accomplish the EPHIS without disclosure. It directly impacts. If these companies are successful, then we will not be able to complete an EPHIS without disclosure. That is just the point I would like to make. I would like to call for the vote.

Chair Furfaro: Since I never saw your amendment, I am just going to ask the administrative person to come up, who ultimately as Mr. Rapozo pointed out, would be responsible for the make-up of this group. Can I have the Managing Director up? I want to keep this quick and simple. The fact of the matter is that I would just like to hear your opinion from the Administration's standpoint.

There being no objections, the rules were suspended.

Ms. Nakamura: Thank you. Nadine Nakamura, Managing Director. The purpose of the joint fact finding process is really to handle the complex scientific and technical questions and brings the stakeholders together. The whole concept is to bring the stakeholders together to have this discussion, hash out the issues, to set priorities, to really begin dialogue, and to build a relationship; to build some trust that we know does not exist on this island. The definition of "stakeholder" is "one who is involved in or affected by a course of action." This is essential to the process. Now a good facilitator will, at the very start of the discussion, have everyone identify their self-interests. That should be upfront. That is the sign of a good, healthy process, so you know where everyone on the table are coming from, what their interest is, what their stake in this issue is, and why being involved in this process is important to them. The intent is to build a consensus of how you approach this scientific study. If we are unable to reach that consensus, and I think this is what happened in the Puna case of the joint fact finding study— there is a majority opinion and the minority opinion is also included in the report that will then come back to the County. Those voices will be heard, but the whole idea is to bring and move the group along to a place that we can have a healthy dialogue.

Chair Furfaro: Mr. Kagawa, I am going to call for the vote. Thank you for answering the concept of how the group would be made up. I will call the meeting back to order. Mr. Bynum, I will recognize you for your second time. Go ahead.

There being no objections, the meeting was called back to order, and proceeded as follows:

Mr. Bynum: I have not spoken on this amendment.

Chair Furfaro:  
time.

Okay. I will recognize you for your first

Mr. Bynum: I do not have questions; I just have comments. I agree with Ms. Nakamura's description of "stakeholder" and obviously, we need stakeholders. This amendment, in no way, precludes stakeholders from the industry being on this. It precludes people paid to be in the room. One of the most effective lobbyists for the industry, by far, in the State is Scott McFarland, who no longer works for Dow. He would definitely be a stakeholder that could participate, as are the landowners, our former employees, and people from the University. This is a commonsense thing that says, "If you are currently suing the County and being paid by the people who are suing the County, find a better stakeholder." Just on the level of fairness, I have a problem with it because the vast majority of people on this are going to be volunteers. They are going to spend a lot of time and energy because they are committed to the issue. This industry has plenty of people that are knowledgeable, articulate, and committed to the industry that can be represented on this group without being paid to be there while the person next to them is losing work to be there. If Dr. Evslin gets involved, he is in private practice. Anybody in private practice... I know because I have been there—you take time out and it costs you double. There is no income coming in, but your expenses are still flying. This is a commonsense amendment that I will certainly support.

Chair Furfaro:

Mr. Rapozo.

Mr. Rapozo: Thank you, Mr. Chair. I believe I have commonsense, too, but I have an opinion. Mr. Klayton back there—there are probably one hundred fifty (150) people right now in active litigation against Pioneer. They are excluded from sitting on this board. One hundred fifty (150) or so plaintiffs in the lawsuit against Pioneer is excluded because of this—is that what you guys want? I was going call you up, Klayton, but I am not because we have to move on. I think I know your answer. I think I know the answer of the one hundred fifty (150) people excluded that would like to have an input in this process, but are in pending litigation so they would be disqualified. That is not fair. I have commonsense. I am not here advocating for the seed companies; I advocate for the people that need to have their voices heard, but happen to be in a lawsuit against Pioneer that would be excluded, and I do not think that is fair. I think it is commonsense to say "no" and allow anyone who has the willingness, the ability, the time, the energy, and the desire to do what is right for the west side to have an opportunity, but not because you are in litigation, you would be disqualified. I want to see Klayton on that board, but personally, you cannot. Wendell would be a good person, but he cannot. Be careful with what you ask for. That is all I am saying. I am not supporting this.

Chair Furfaro:  
Mr. Chock, did you want to speak?

On that note, I will be calling for the vote.

Mr. Chock: I totally agree. We do not want to limit. However, I also agree with the fact that we do not want people who are paid there and have other obligations to the companies. I am wondering, Councilmember Hooser, if you would be able to look at taking this piece out, "with any litigation currently pending involving" these members; potential stakeholders?

Mr. Hooser: So the question is, am I willing to take out the community people involved in lawsuit, but not the corporations involved in the lawsuit? Is that the question?

Mr. Chock: Correct.

Mr. Hooser: No. I think in the interest of being fair, that if a person is actively suing... I am being fair to Pioneer as well as being fair to everyone else because you have a financial stake. If you are suing someone, you have a financial stake.

Mr. Chock: Let me restate that. Would you be willing to except anyone who is in litigation? That would include the seed companies.

Mr. Hooser: The amendment stands as it is written. If someone wants to submit another amendment to that, I am open to... they say it is "compromise." I am open to things, but this amendment stands. I think in the interest of being fair— there are good people that work for Pioneer and there are good people in the community, but if you are involved in a lawsuit and you are financially benefiting from the situation, I think that for both sides, it would be better to say "no." It is not personal about anyone. That is the intent of the amendment. Thank you.

Chair Furfaro: Mr. Bynum, you have a second turn.

Mr. Hooser: I want to agree with Councilmember Rapozo that this would impact the people that are involved in the Waimea lawsuit. It is the way I read it and I think that is appropriate. "What is good for the goose is good for the gander." If I am being paid to be there and I have to answer to these people or I have a financial interest, my judgment is going to be clouded at some level, and the same thing I said about the industry. The people in Waimea who are involved in that lawsuit; there are plenty of articulate, appropriate members of the community who are not involved in the lawsuit that can represent the interests of those individuals just like how there are plenty of articulate people that can represent the interest of the industry without having a personal benefit so I support the amendment.

Chair Furfaro: Okay. I will call for the vote. As Chair, I would like this to be a roll call vote please.

The motion to amend Resolution No. 2013-72, Draft 2 as circulated, as shown in the Floor Amendment which is attached hereto as Attachment 4 was then put, and carried by the following vote:

FOR AMENDMENT:	Bynum, Chock, Hooser	TOTAL – 3,
AGAINST AMENDMENT:	Kagawa, Rapozo, Yukimura, Furfaro	TOTAL – 4,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Chair Furfaro: The amendment fails. I do want to say that as it came up on the fact that it would eliminate citizens involved in the Pioneer lawsuit, that had a lot to do for me because I do not think they should be eliminated. On that note, we are concluding for the day. Mr. Bynum?

Mr. Bynum: I would like the opportunity to present another amendment given the outcome of the vote and your comments.

Chair Furfaro: Okay. If there are any further amendments before we vote on this Bill, as amended, it will be done in the afternoon, as we are one (1) hour behind the time as posted.

Mr. Bynum: Thank you.

Chair Furfaro: I think we should recess to 4:00 p.m.

Mr. Kagawa: A recess to after the Committee Meetings?

Chair Furfaro: Yes, which will be about 4:00 p.m.

Mr. Kagawa: Hopefully sooner.

Mr. Bynum: Chair, you are chairing the meeting so I will defer to your judgment, but the amendment will be really straightforward and will be straight up or down. It could be done quite quickly.

Ms. Yukimura: Is it ready?

Chair Furfaro: Will the group in the Chambers allow us fifteen (15) more minutes before we start on our other Committee Meeting bills? Yes, they will. We will recess for ten (10) minutes. We will come back to the table and we will entertain your one amendment.

There being no objections, the meeting recessed at 10:31 a.m.

The meeting reconvened at 10:48 a.m., and proceeded as follows:

Chair Furfaro: We are back from recess. We have one more amendment that is going to be introduced by Mr. Bynum. After I recognize Mr. Bynum, we will vote on the entire Resolution as it has been amended so far. Mr. Bynum, you have the floor.

Mr. Bynum moved to amend Resolution No. 2013-72, Draft 2 as circulated, as shown in the Floor Amendment which is attached hereto as Attachment 5, seconded by Mr. Hooser.

Mr. Bynum: In this last discussion, I have listened to what other Councilmembers said. Councilmember Chock and the Chair inquired about separating the paid idea from those involved in litigation, so this just removes the language about litigation and keeps the language that says, "Members appointed to serve on the JFFG shall not be employed by nor receive any compensation or financial benefit from any entity directly impacted by Ordinance No. 960." With that, it deals with the issue as "are you being paid to sit at the table," when the guy next to you is giving their time voluntarily. It does not have anything to do with litigation, so it would not impact the ways that people seem to be concerned. It is worth a shot. That is it.

Chair Furfaro: JoAnn?

Ms. Yukimura: I strongly oppose this proposed amendment. To exclude the companies is excluding a major stakeholder and I believe that they need to be part of the discussion. It does not have to be the Chief Executive Officers (CEOs) or Managers. There were many bright, young scientists who I met who are part of that. There are local people who have grown up and gone away to school. They are very idealistic and very science based who might be very good to serve on this. To exclude a major stakeholder in this will flaw the process.

Chair Furfaro:

Okay. Mr. Rapozo.

Mr. Rapozo: Thank you, Mr. Chair. Although I disagreed with the amendment from Mr. Hooser, he did make one comment which I completely agree with which he wanted to be fair to both sides and "what was good for the goose was good for the gander." As much as I disagreed with the amendment, I agreed that it should be fair to both sides. This here just really makes the appearance that we do not want to include any of the seed company representatives. I think Mr. Hooser alluded to more of the fiduciary duty of these employees, not so much that they were getting paid while present at the meeting, but what was their fiduciary duty to the companies that they worked for, which would remain the same. I do not know if you would call it "loyalty," but there is a certain obligation by the plaintiffs in the lawsuits to the lawsuit as well. I think that no one should be excluded is my point. No one should be excluded from sitting on this fact finding board or committee, and we should let the chips fall where they fall. Mr. Klayton and I had a discussion on the break that we really need to hear from all sides. I have faith that this group as a whole will make the right decisions and not be led one way or the other by any particular group that sits on that committee, so I will not be supporting this amendment. Thank you.

Chair Furfaro: Okay. Are there any more discussion?  
Mr. Hooser, and then I will go back to Mr. Bynum.

Mr. Hooser: I mentioned the word "compromise" earlier and I believe that as much as I supported the lawsuit provision, I see this as a compromise. I will be supporting it. As Mr. Rapozo said, it really boils down to the fiduciary relationship. Any bright, young scientist— their commitment is to their employer. This group will be targeting what areas are going to be studied and depending on what that target is will have direct impacts on certain companies. Syngenta, for example, holds the rights to Atrazine so if an employee worked for Syngenta, it is not in Syngenta's best interest for this study to focus on Atrazine; it would be better to focus on some other chemical. That is just an example. To have paid employees, I think, will cloud the ultimate outcome of this, so I will be supporting the amendment.

Chair Furfaro: Are there any further discussion?  
Mr. Bynum, you have the floor for the second time.

Mr. Bynum: Real briefly, I just want to object to the framing that this would exclude a stakeholder. Anybody that knows the State knows that the seed companies have plenty of people to step to the floor and represent them that are not paid employees. This will not exclude stakeholders. Our previous thing said that we are going to exclude farmers and ranchers who have lost their land, so they are excluded. This does not exclude any stakeholders.

Chair Furfaro: My only comment before I call for the vote is that we are looking for the facilitator to create some balance here. There will be full disclosure of who is available on the selection and quite frankly, I think there is going to be *kūkae* on both sides, so I need to make sure that there is room for people out in Waimea that might be part of the Pioneer suit. At the same time, we would hope that there are other talents, as JoAnn pointed out, that could participate, so I will not be supporting this amendment. On that note I will call for the vote.

The motion to amend Resolution No. 2013-72, Draft 2 as circulated, as shown in the Floor Amendment which is attached hereto as Attachment 5 was then put, and carried by the following vote:

FOR AMENDMENT:	Bynum, Chock, Hooser	TOTAL – 3,
AGAINST AMENDMENT:	Kagawa, Rapozo, Yukimura, Furfaro	TOTAL – 4,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Chair Furfaro: The amendment fails. Now we have two amendments that did pass? Am I correct? Based on that, we need to move forward on getting approval on the Resolution as amended, right? May I have that motion?

Ms. Yukimura: Chair, the main motion was already made so I think we can just call for the vote.

Chair Furfaro: The main motion as amended was already made? I just want to get clarification. It was not made, JoAnn. JoAnn, if there is any discussion on the Resolution, you can have the floor now.

Ms. Yukimura: I do not have any discussion. Thank you.

Chair Furfaro: Okay. Mr. Kagawa, and then Mr. Bynum.

Mr. Kagawa: I would just like to thank Councilmember Yukimura, who kind of caught this. It was an oversight by me the first time and she caught it. I think keeping the task force or the EPHIS joint fact finding group narrow and simple... but still, it is not going to be simple. We have seen how long this debate goes on. Like Mr. Kubo said, we have to find out what it is doing to our health of our people. No matter how long it takes or how hard it is going to be... the only way you are going to achieve that is to have both sides. You are going to have back and forth people disagreeing, but the facts should prevail in the end. I am happy and I am looking forward to the results. I want to see this thing move forward as soon as possible. Thank you.

Chair Furfaro: Mr. Bynum.

Mr. Bynum: I am going to vote for this today very reluctantly because I do not believe that this is the right approach. When Bill No. 2491 was introduced, it contemplated doing an environmental impact statement. Environmental impact statements are standard in this Country and they include elements to give them credibility and comprehensiveness. I think a lot of people are soured by the idea that we do a lot of EAs and they are to a purpose. For example, we want to expand this road and we have to see if we have to get the National Environmental Policy Act (NEPA) and that is one of the things that Environmental Law does to put checks and balances on government. That is not

the only way environmental impact statements are used. They are used in a much more robust and targeted manner when there are specific instances like we have here on Kaua'i. Moving to an environmental and joint fact finding study/model is okay with me as well, but we are throwing out the environmental part. There are very little environmental components. It is really a health study. Our environment is impacted in tons of ways. It is where we live, pray, work, and be together. Our quality of life and health is impacted by what we are exposed to, but it is also impacted by the economics that happen around us, opportunities, access to healthcare, services, and environmental justice. Now I believe we are creating something that we did not even let the consultant and joint fact finding group decide for themselves. We have not gotten any professional, environmental services type of input in this process and now we are creating this joint fact finding and the image, largely of JoAnn Yukimura, who has not compromised one time that I can recall in this. She has been very strident since she took command of this process and has basically told the Council "my way or the highway." Now many of the things that she put in improved it; I recognize that, but creating this in the image of this Council or one Councilmember is the wrong approach and we have tied the hands of the joint fact finding group. I believe it is going to hurt our credibility in the long run and is fundamentally... we could have gone with joint fact finding, but not truncate the process and we have not even heard from the professionals yet. I think this is a very misguided approach that puts to jeopardy, all of this hard work. That is all I have to say.

Chair Furfaro:

JoAnn, you have the floor.

Ms. Yukimura:

I just want to say...

Chair Furfaro: Excuse me, JoAnn. I just want to correct something. You are correct. I had double-dipped on "approving as amended" twice.

Ms. Yukimura: Okay. I want to say that Councilmember Bynum's characterization of this being a "JoAnn Yukimura Resolution" is insulting, not only to me, but also to the other Councilmembers whose votes count equally. We do our business by a majority of votes. The dialogue and debate has been extensive. I think this is a decision of the body made by our rules where majority rules. The comment was untrue.

Chair Furfaro:

Other members? Mr. Rapozo.

Mr. Rapozo: Thank you, Mr. Chair. I guess I will just say that a lot of the concerns that were raised like environmental justice and so forth are issues that are currently governed by existing regulations and departments. I will be curious to know if anyone even submitted a request to the Environmental Protection Agency (EPA) to look at the environmental justice issues here on the west side. This Council constantly tries to do the work of others and that troubles me at times. As much as I would like to, we also have to understand our role in the bigger picture. This study is going to give us exactly what the community has been crying for for a long time—crying for. In fact, it was the basis for the Bill being drafted. There are other pathways to the issues that are of concern, the economics, and I think I spoke of that earlier in my earlier comments. This Resolution needs to pass. The joint fact finding committee needs to be put together and needs to include people from all segments of the community from all stakeholders. We cannot eliminate a certain group of people because they have a different viewpoint. That is communism. That is what that is. When you say, "We want everybody to come

together except you because you disagree.” That is not being sincere in trying to get to the bottom of it. I think we have relied on a lot of allegations and innuendos on both sides and we want to see our beliefs come true, so we want to make sure this team is set up in a way that guarantees our success or what we believe in versus having a thorough discussion and dealing with what happens. If this study comes out that there are hazards on the west side that are within the limits, people are going to say that it was fixed or it was rigged like the Superbowl on Sunday. All of the Denver fans think it was rigged because they got blown out. If it comes out that it is dangerous out on the west side, then everybody will accept this study. “Yes, that is what we have been telling you all along.” The fact of the matter is that you have to put together a bunch of people from all walks and have the studies and the sciences do the work. I know we have a concern about Western science versus Eastern science. I like your idea and I hope they take that up and bring in an Eastern science specialist or whatever it takes, I think should sit on that committee and not be excluded. The Resolution, as amended, by Councilmember Yukimura does that. It allows us to focus on the science, focus on the health issues, and move forward. I am hoping that we can get this passed today. Thank you.

Chair Furfaro:

Mr. Hooser, you have the floor.

Mr. Hooser: As I had said on many occasions, I think good people can look at the same facts and information and come to different conclusions. I believe that the amendments proposed by Councilmember Yukimura today and throughout this process have to a large part, weakened and diminished the intent of both Bill No. 2491 as well as the EPHIS. There have been strong amendments and I appreciate that, but overall, I am disappointed that the measure has not been stronger than it is today. I disagree with Councilmember Rapozo’s characterization that the reason we are here today, the reason for the Bill is the EPHIS and as a co-introducer of the measure with Councilmember Bynum, I know full well that that was not the intent of the Bill. The intent of the Bill was to first and foremost put in measures to protect our community immediately, and then to use the information gathered to do a complete full blown environmental impact statement. I believe then and I believe now that that is the only way for us to truly get to the bottom and do the comprehensive evaluation of all the impacts of this industry. Having said that, I mentioned earlier that compromise is important in this process and I have compromised all along the way, and have accepted that what we have is what we have on the table. I am disappointed that it is not stronger. I tried my best to put forward amendments to strengthen it and I am disappointed that they have not been supported and that others have led the charge to weaken, in my opinion, both the EPHIS, as well as the Bill itself. While I am very pleased to get this vote out of the way and move on, I am very disappointed that it is a continual fight, it seems like, to strengthen the measure. I bow to the wishes of the majority on the Council and understand that is how business is done here. Thank you, Chair.

Chair Furfaro: Thank you, Mr. Hooser. Anyone else before I call for the vote? I want to say that the actions that we do here, we do as a body and it is a majority. I want to say that when Mr. Hooser and Mr. Bynum came to me with Bill, it is my duty as Chair to put the Bill on the agenda. I did with some urgency because I think that there was some urgency in getting this for our County within the State of Hawai’i to get it out so that people can have meaningful discussion. I hope that as we see today’s work; this is the best we have put together for now that we have the majority to agree on. Secondly, I do not ever want us to find ourselves in a position that we cannot constantly make

improvements going forward. On that note, I would like to have a roll call vote please.

The motion to adopt Resolution No. 2013-72, Draft 2, as amended, was then put, and carried by the following vote:

FOR ADOPTION:	Bynum, Chock, Hooser, Kagawa, Rapozo, Yukimura, Furfaro	TOTAL – 7*,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

*(\*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Hooser is noted as voting silent but shall be recorded as an affirmative vote for the motion.)*

Chair Furfaro: Madame Clerk, I want to make sure and confirm this; Mr. Hooser was, in fact, a silent vote. In our rules, a silent vote goes with the majority of the vote of the outcome so although it was recorded as "silent," it puts us at 7:0. Am I correct?

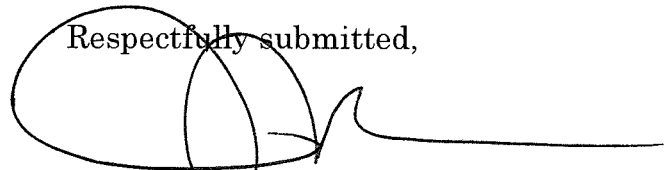
Ms. Fountain-Tanigawa: Yes.

Chair Furfaro: Our business for today in the Special Council Meeting is finished. Thank you.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 11:09 a.m.

Respectfully submitted,



JADE K. FOUNTAIN-TANIGAWA  
Deputy County Clerk

:cy

(February 5, 2014)

FLOOR AMENDMENT

Resolution No. 2013-72, Draft 2, Relating To Implementing An Environmental And Public Health Impacts Study Via Formation Of A Pesticide And Genetic Engineering Joint Fact Finding Group

Introduced by: JOANN A. YUKIMURA

Amend Resolution No. 2013-72, Draft 2, by amending the 10<sup>th</sup> paragraph to read as follows:

“BE IT FURTHER RESOLVED, that the County of Kaua‘i Administration is requested to issue a Request for Qualifications to hire the facilitator to organize and facilitate the initial process whereby the JFFG will define the scope and parameters of the EPHIS, through the following scope of work:

- 1) Form a Pesticide and Genetic Engineering Joint Fact Finding Group of no less than twelve (12) scientific, environmental, economics, cultural, and public health experts, along with medical clinicians and community stakeholders, who are knowledgeable, respected, representative of the community, and willing to commit substantial time and energy to the project;
- 2) Undertake sustained and science-centered deliberations to identify the highest priority environmental and public health questions pertinent to the pesticides used and genetically modified crops grown by large-scale commercial agricultural entities on Kaua‘i, and in comparison to the production of other agricultural products; this may include, but not be limited to, Atrazine, Bifenthrin, Chlorpyrifos (Lorsban), Clothianidin, Glyphosate (Roundup), Paraquat, and “2,4-D”;
- 3) Develop recommendations as to the highest priority questions to be asked; including, but not limited to, preferred methodologies for replicable studies, monitoring, and epidemiological analysis; and standards to be used for recommended scientific studies; including the thresholds of safety or danger related to the presence of identified pesticides;
- 4) Assemble an inventory of reliable existing studies, preferably but not exclusively peer reviewed, available to address the identified environmental and public health priority questions;
- 5) Estimate costs and timelines of recommended scientific and monitoring studies;
- [6) Examine and report findings related to issues dealing with economic impacts, food sustainability, and environmental justice;]
- [7)] 6) Identify possible sources of funding for recommended scientific and monitoring studies;
- [8)] 7) Provide public posted agenda and written minutes of each meeting to the County;
- [9)] 8) Present to the Mayor, County Council, and the community, the draft and final scope of work and parameters of the EPHIS with recommendations no later than one (1) year from the Notice to Proceed to the facilitator following the securing of funding;”



(February 5, 2014)

FLOOR AMENDMENT

Resolution No. 2013-72, Draft 2, Relating to Implementing an Environmental and Public Health Impacts Study Via Formation of a Pesticide and Genetic Engineering Joint Fact Finding Group

Introduced by: MASON K. CHOCK, SR.

Amend Resolution No. 2013-72, Draft 2, by amending item No. 6 in the 10<sup>th</sup> paragraph to read as follows:

- “6) Examine and report findings related to issues dealing with economic impacts, food sustainability, and environmental [justice;] justice, if deemed appropriate;”

(Material to be deleted is bracketed. New material is underscored.)

V:\AMENDMENTS\2014\01-22-2014 EPHIS MC AO\_cy.docx



(February 5, 2014)

FLOOR AMENDMENT

Resolution No. 2013-72, Draft 2, Relating To Implementing An Environmental And Public Health Impacts Study (EPHIS), Via Formation Of A Pesticide And Genetic Engineering Joint Fact Finding Group (JFFG)

Introduced by: JAY FURFARO (By Request)

Amend Resolution No. 2013-72, Draft 2, by amending item #2 in the 10<sup>th</sup> paragraph to read as follows:

- “2) Undertake sustained and science-centered deliberations and collect islandwide data to identify the highest priority environmental and public health questions, including the incidence of disease entities tabulated by zip code, pertinent to the pesticides used and genetically modified crops grown by large-scale commercial agricultural entities on Kaua‘i, and in comparison to the production of other agricultural products; this may include, but not be limited to, Atrazine, Bifenthrin, Chlorpyrifos (Lorsban), Clothianidin, Glyphosate (Roundup), Paraquat, and “2,4-D”;

(Material to be added is underscored.)

V:\AMENDMENTS\2012-2014 term\FA-d2 ephis jf AO:aa



(February 5, 2014)

FLOOR AMENDMENT

Resolution No. 2013-72, Draft 2, Relating To Implementing An Environmental And Public Health Impacts Study (EPHIS), Via Formation Of A Pesticide And Genetic Engineering Joint Fact Finding Group (JFFG)

Introduced by: GARY L. HOOSER

Amend Resolution No. 2013-72, Draft 2, by amending the 8<sup>th</sup> paragraph to read as follows:

“BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF KAUAI, STATE OF HAWAII, that the County of Kauai fund a qualified neutral facilitator to convene and facilitate a Pesticide and Genetic Engineering Joint Fact Finding Group (JFFG) comprised of individuals with knowledge and expertise in the fields of science, medicine, economics, culture, environment, and community stakeholders, to design and oversee a focused, accountable, and credible Environmental and Public Health Impacts Study (EPHIS). Selection of members to serve on the JFFG shall be via a process that solicits participation from qualified members of the general public on Kauai. The facilitator shall consult with the Mayor, the Chair of the Kauai County Council, and the Chair of the Planning Committee of the Kauai County Council regarding anticipated selections prior to finalizing and completing the JFFG membership process.

Members appointed to serve on the JFFG shall not be employed by nor receive any compensation or financial benefit from any entity directly impacted by Ordinance No. 960, nor be directly involved with any litigation currently pending involving any entity directly impacted by Ordinance No. 960.”

(Material to be deleted is bracketed. New material to be added is underscored.)  
V:\AMENDMENTS\2014\FA-ephisd2 GH AO\_dmc.doc



(February 5, 2014)

FLOOR AMENDMENT

Resolution No. 2013-72, Draft 2, Relating To Implementing An Environmental And Public Health Impacts Study (EPHIS), Via Formation Of A Pesticide And Genetic Engineering Joint Fact Finding Group (JFFG)

Introduced by: TIM BYNUM

Amend Resolution No. 2013-72, Draft 2, by amending the 8<sup>th</sup> paragraph to read as follows:

“BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF KAUAI, STATE OF HAWAII, that the County of Kaua‘i fund a qualified neutral facilitator to convene and facilitate a Pesticide and Genetic Engineering Joint Fact Finding Group (JFFG) comprised of individuals with knowledge and expertise in the fields of science, medicine, economics, culture, environment, and community stakeholders, to design and oversee a focused, accountable, and credible Environmental and Public Health Impacts Study (EPHIS). Selection of members to serve on the JFFG shall be via a process that solicits participation from qualified members of the general public on Kaua‘i. The facilitator shall consult with the Mayor, the Chair of the Kaua‘i County Council, and the Chair of the Planning Committee of the Kaua‘i County Council regarding anticipated selections prior to finalizing and completing the JFFG membership process.

Members appointed to serve on the JFFG shall not be employed by nor receive any compensation or financial benefit from any entity directly impacted by Ordinance No. 960.”

(Material to be deleted is bracketed. New material to be added is underscored.)  
V:\AMENDMENTS\2014\FA-ephisd2 GH AO\_dmc.doc

